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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,173	06/04/2001	Spencer M. Gold	SMQ-043	7642

959 7590 01/10/2006

LAHIVE & COCKFIELD, LLP.  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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HUISMAN, DAVID J

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No. 09/874,173	Applicant(s) GOLD ET AL.	
Examiner David J. Huisman	Art Unit 2183	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
RICHARD L. ELLIS  
PRIMARY EXAMINER

On page 4 of the remarks, applicant argues that the examiner has taken the final step of the claimed invention out of context and that the examiner's interpretation would require that a subsequent instruction be retired before assignment of the architectural register as a destination operand for this subsequent instruction occurs.

While this argument has been fully considered, the examiner has found it to be non-persuasive. More specifically, it is not understood why such an aforementioned action is required using the examiner's interpretation. To sum up Yeager and how it is applied to applicant's claims, when a first instruction having a destination is encountered, a physical register from the free list 210 is mapped to the architectural register corresponding to the destination and the mapping is placed in the mapping table 206. Eventually, the first instruction will be retired, and its mapping will be left in the mapping table so that all future instructions which use the first instruction's destination as a source will know which physical register to access. However, when a second instruction having the same destination as the first instruction is encountered, a new physical register from the free list 210 is mapped to the architectural register corresponding to the destination and the new mapping is placed in the mapping table 206, thereby replacing the mapping associated with the first instruction. The first instruction's mapping, which is now the old mapping, is placed in the active list 212. When the second instruction retires, the physical register used by the first instruction may be officially deallocated and sent to the free list 210 for use in the future by some other instruction.

The functionality of Yeager alone is enough to anticipate the claims as currently worded. The last two paragraphs require:

- a) transferring the assignment from the second to third structure after retirement of the first instruction. As the examiner pointed out above, the assignment is not moved to the third structure until it is an old assignment, i.e., after the first instruction has long been retired and a second instruction with the same destination as the first instruction is encountered (and a new assignment is created).
- b) when the architectural register is assigned as a destination for a subsequent instruction, transferring information identifying the physical register as available from the third to first structure. As the examiner pointed out above, when the second instruction has the same architectural register assigned as a destination (just like the first instruction), it creates a new mapping, pushing the old mapping to the active list. Then, when the second instruction retires, the physical register associated with the old mapping is moved to the first structure (free list). As the examiner stated in the final rejection, applicant's claims include "comprising" language, and therefore, Yeager's step of retiring the second instruction before the transfer from third to first structure takes place may exist and still read on applicant's claims..